



FINDINGS OF FACT

1. The Town of Exeter is a public employer as defined by RSA 273-A:1 X.
2. The State Employees' Association of New Hampshire, Inc., is the duly certified bargaining agent of employees working in the Town's Public Works, Parks and Recreation, and Town Office departments.
3. At all times pertinent to these proceedings the parties were attempting to negotiate a successor collective bargaining agreement (CBA).
4. On December 12, 1991, Town negotiators informed Union negotiators that Town negotiators were unavailable to meet for negotiations prior to 3:30 p.m. during weekdays, offering instead to negotiate during evening hours or on weekends.
5. On December 19, 1991, Town attorney/negotiator Engel reaffirmed this position, confirming that only Selectman Binette could meet prior to 3:30 p.m. on a weekday given the working schedules of Selectmen Roy, Moyers and Dix and the health of Selectman Baillargeon.
6. There is a reluctance on the part of the Town to negotiate with only one selectman in attendance.

DECISION AND ORDER

RSA 273-A:3 defines "good faith" negotiations as "meeting at reasonable time and places in an effort to reach agreement on the terms of employment..." RSA 273-A:11 II provides that "a reasonable number of employees who act as representatives of the bargaining unit shall be given a reasonable opportunity to meet with the employer or his representatives during working hours without loss of compensation or benefits."

Over the years, this Board has applied those principles to the obligation to bargain. In a nutshell, we have held that one side cannot control meeting times to the exclusion of the other, that, absent an agreement by the parties to the contrary, there must be a mix of bargaining sessions during the normal workday and outside the normal workday, and that bargaining date and times cannot be manipulated due to the circumstances of a given participant or participants. Amherst Education Assn. (Decision No. 92-52, March 16, 1992) provides instructional guidance as to accepted practices. See also Educational Support Personnel Assn. of Portsmouth (Decision No. 84-84, November 21, 1984), AFSCME v. Wolfboro

(Decision No. 85-07, January 18, 1985), and Keene Education Assn. (Decision No. 89-24, March 23, 1989). In Keene Education Assn. (Decision No. 90-70, September 5, 1990), we voted that "persons seeking public office...should be cognizant of the obligations inherent with such public office," to the extent their personal schedules cannot dictate the fairness and reasonableness of scheduling bargaining sessions.

Given this long line of cases and the consistent message of this Board, we find that the Town's refusal to meet except after 3:30 p.m. was a violation of its obligation to bargain (RSA 273-A:3) and the opportunity for meetings during working hours (RSA 273-A:11 II) such as to be an unfair labor practice under RSA 273-A:5 (e) and (g). Accordingly:

1. The Town is directed to Cease and Desist from refusing to bargain except after 3:30 p.m. on weekdays or on evenings and weekends.
2. The parties are directed to meet for the purpose of agreeing on times and places for future negotiating sessions, said sessions to reflect a mixture between working and non-working hours, with the specific directive that "working hours" will not be limited to 3:30 p.m. or later in the afternoon.
3. If the parties are not able to agree on their negotiating schedule within ten (10) days of the date of this decision, either may petition the PELRB to establish a schedule of meetings reflecting a mixture of working and non-working hours consistent with the principles noted herein.

So ordered.

Signed this 21st day of April, 1992.

  
EDWARD J. HASELTINE  
Chairman

By unanimous vote. Chairman Edward J. Haseltine presiding.  
Members Richard W. Roulx and Arthur Blanchette present and voting.